THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO.22635 OF 1999

Date: March 22, 2007

Between:

1. B.Venkateswarulu, son of Ramulu,
   aged 42 years, resident of Hyderabad
   and 44 others.

…. Petitioners

And

1. A.P. State Meat & Poultry Development
   Corporation, Shantinagar, Hyderabad,
   Rep. by its Managing Director and another.

…. Respondents.

* * *

ORDER:

This writ petition is filed seeking a Mandamus declaring action of the first respondent, in not following the provisions of Industrial Disputes Act and contrary to the orders of the Government, in seeking to terminate the services of the petitioners as arbitrary, illegal and unconstitutional and consequently to direct the respondents to continue the petitioners in service and to pass such other orders.

2. It is the case of the petitioners that the first respondent is an undertaking of Government of Andhra Pradesh and it is 'State' within the meaning of Article 12 of the Constitution of India. According to the petitioners, they have been working for more than 10 years (as on the date of filing of the writ petition) in the first respondent corporation and they are still continued on temporary basis without regularisation of their services. The first respondent designated some of the petitioners as daily waged workmen and some of them as contingent workmen. The work performed by all the petitioners is perennial in nature and it

is associated with the main activity of the corporation. The objects of the corporation are to develop poultry farms, duckery and their hatcheries, egg banks, cold storage stations, to promote manufacturing of all kinds of poultry equipment, poultry feeds, to promote efficient and hygienic facilities for the slaughtering of animals, to carry on the business of all kinds of meat and their products, to undertake storage facilities for purchase and sale of animals and to provide services relating to the meat and meat products etc. It has got several units spread over throughout the State and at all the units the corporation undertakes the works like feed manufacture, dressing of birds, slaughtering and dressing of animals etc. Thus, there is manufacturing activity at all the units of the corporation and they fall within the definition of factory as defined under Section 2 (k) of the Factories Act. Since the corporation employs more than 100 workmen and since it is a factory within the meaning of Factories Act, it is an industrial establishment falling under Chapter V-B of the Industrial Disputes Act. All the petitioners herein are workmen within the meaning of Section 2 (s) of the I.D. Act and the provisions of Industrial Disputes Act; more particularly the provisions of Chapter V-B are applicable to the first respondent corporation. While that being so, the services of the petitioners are sought to be terminated and the petitioners therefore filed the present writ petition.

3. A detailed counter-affidavit has been filed by the respondent No.1 stating that the corporation is neither a factory nor an industrial establishment as defined under Section 25-N read with 25-L of the Act. Therefore, the services of the petitioners were terminated while invoking the provisions of Section 25-F of the Industrial Disputes Act. Further, the corporation itself wound up and now it is functioning as Sheep and Goat Development Cooperative Federation. 50 employees retired under VRS scheme by the corporation, 214 employees were discharged by issuing notice under Section 25-F of the Industrial

Disputes Act and 42 regular employees were also discharged by issuing notice under Section 25-F of the Industrial Disputes Act. The petitioners originally 45 in number are contingent employees, 25 of them have already withdrawn the writ petition and the remaining 20 persons have no right whatsoever for continuing their services in the corporation or the Federation.

4. Heard both sides.

5. There is no necessity of going into any further details. It is a fact that the writ petition was filed under the apprehension that the services of the petitioners are sought to be terminated with effect from 30.10.1999 and insofar as the petitioners are concerned notices under Section 25-F of the Industrial Disputes Act were not served. While admitting the writ petition this court directed to continue the petitioners in service during pendency of the writ petition.

6. Learned counsel for the petitioners stated that during pendency of the writ petition these remaining 20 petitioners were asked to exercise their option as to whether they are willing to work with the Sheep and Goat Development Cooperative Federation or not. The petitioners have opted to work under the A.P. Sheep and Goat Development Cooperative Federation. Thus, they are working with the A.P. Sheep and Goat Development Cooperative Federation. May be true as on the date of filing of the writ petition there was apprehension that their services are sought to be terminated, but as of now there is no such threat of termination of their services.

7. The writ petition is accordingly disposed of directing the respondents to continue the petitioners in service on the same terms and conditions as of now. However, this will not preclude the authorities from taking appropriate action either for regularising the services of the petitioners or terminating their services if their services

are not necessary by following the procedure as per law.

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(C.V.RAMULU, J.)

Date: March 22, 2007.

Note:
Office to despatch copies
in one week
(B/O)
BSB